



**ADVISORY COUNCIL ON
NATIONAL RECORDS AND ARCHIVES**

Date: 10 February 2023
Time: 11:00-15:40
Venue: The National Archives and Video Link

Chair: Sir Geoffrey Vos, Master of the Rolls, Chair

Members: Mr David Rossington, Deputy Chair
Ms Liz Copper
Dr Helen Forde (via VL)
Dr Nigel Fletcher
Mr Peter Gooderham (via VL)
Ms Kate Grimley-Evans
Mr Stephen Hawker
Mr Martin Howard
Professor Phillip Johnson
Professor Leon Litvack, Deputy Chair of the Forum
Sir David Natzler
Ms Helene Pantelli
Mr Jonathan Scherbel-Ball (via VL)
Mr Martin Uden
Mr John Wood

Minutes: Isabel Saunders, Senior Governance Coordinator and Advisory Council Secretariat (TNA)

Non-members:

TNA: Senior Access Manager
Ms Asha Bagayat, Head of Governance (via VL)
Ms Sue Browne, Head of the FOI Centre
Mr James Clarke, Head of Government Services Strategic Compliance Lead (via VL)
Ms Lucy Fletcher, Public Access and Government Services Director
Mr Jeff James, Chief Executive and Keeper
FOI Manager (via VL)
Mr Malcom Todd, Head of Policy
Mr Sam Whaley, Head of Strategy and CEO's Office Governance Coordinator

MR's Office: Office of the Master of the Rolls

1. Welcome, introductions, apologies and declarations of interest

- 1.1. The Chair welcomed everyone to the meeting.
- 1.2. Lady Moira Andrews and Dr Jeannette Strickland submitted apologies for absence.
- 1.3. Mr David Rossington declared he had been appointed as a member of the gambling commission board.

2. Minutes and matters arising

Minutes of the meeting held on 21 November 2022

- 2.1. Subject to amendments proposed by members, the minutes of the meeting held on 21 November 2022 were approved as a correct record.

ACTION: The Secretariat to update the minutes with the suggested amendments and upload the public set of minutes to the website.

Actions Log

- 2.2. The Deputy Chair provided an update on the letter the Advisory Council had written to the Department for Digital, Culture, Media and Sport (DCMS).
- 2.3. The Action Log was noted. The following actions were closed:

Items 24, 25, 26, 27, 28 and 29.

ACTION: The Secretariat to update the Actions Log with the items reported at the meeting.

3. Chief Executive Officer's Report and Government Landscape Update

- 3.1. The Chief Executive and Keeper introduced his update paper on current issues and ongoing matters. He also introduced the Head of Policy to give members an oral update on the police response to the Hillsborough Families Report and also on The National Archives' response to the court judgment on unofficial government communications.

- 3.2. Mr Todd provided members with an update on the court judgment on unofficial government communications and its clarification of the meaning of Section Three of the Public Records Act 1958. He highlighted the role of the Keeper in providing guidance on these matters and that initial guidance on retaining public records, wherever they existed, until their value could be determined, had been issued on 20 December 2022. He also highlighted ongoing work on communications guidance with the Cabinet Office.
- 3.3. Members asked if there was a need to revise legislation in light of the judgment. Mr James noted the Public Records Act was format-neutral and so there was no immediate need to update it.
- 3.4. Members discussed the issue of the selection of records by departments. Mr James stated that The National Archives also provided oversight and guidance in this area and records collection experts were engaged with this matter. Ms Fletcher added that in addition to working with those directly involved with records The National Archives also worked with the Cabinet Office and technology companies to ensure the interfacing between technology and guidance was as frictionless as possible.
- 3.5. Members asked about The National Archives work with public inquiries. Mr James responded that at the commencement of any public inquiry he writes to the chair and secretary; this provided good opportunities to emphasise the importance of good record keeping, but was not always fully realised.
- 3.6. Mr Todd provided an update on the police response to the Hillsborough Families Report. He noted the results of this report recommended a new code of practice to cover this information. Members discussed the impact of this including the bodies covered under this guidance.
- 3.7. Ms Fletcher gave members an update on the impact of recent industrial action on The National Archives. She stated The National Archives had been able to provide access to the public records for pre-booked users but had not operated an on demand service on that day.
- 3.8. Members asked about the digitisation of Ministry of Defence Service Personnel records. Ms Fletcher responded that The National Archives would not be able to consider full digitised imagery within the next four years due to the scale of the ongoing work. Ms Fletcher said she would endeavour to include more information on the collation of this material as part of the next update.

ACTION: Ms Fletcher to include information on the MoD Service Personnel as part of the next update.

4. Governance Working Group Update

- 4.1. The Deputy Chair provided an update on recent working group matters.
- 4.2. He highlighted the renaming of file audits to spot checks, the request to review the Public Interest Test form that departments and members complete, and their discussions around S23 and S24 and Advisory Council records.

DECISION: The Council agreed to the recommendations set out by the Working Group

ACTION: The Secretariat to organise a meeting of the Governance Working Group.

5. Update from the Forum on Historical Manuscripts and Academic Research

- 5.1. Professor Litvack introduced the paper on the recent work of the Forum.
- 5.2. He highlighted the Forum's future visit to a private archive in the wider sector and key topics discussed by the Forum at its January meeting.
- 5.3. Members noted the report.

6. Production of the Annual Report 2022/2023

- 6.1. The Secretariat reminded Council members their annual report would need approval at the May meeting for its presentation to Parliament in Summer. She highlighted recommendations for this year's report and invited members to give any comments on the drafting of the report.
- 6.2. Members requested if it would be possible to access statistics on viewing or downloads of previous annual reports. They also confirmed they would like the table broken down into more digestible data. Members agreed they would prefer not to be photographed for the report. Members also agreed the report should include a section on the Council's own records.
- 6.3. Members noted the report.

DECISION: The Council agreed to the recommendations set out in the report, with the exception of including a photograph of a Council meeting in the report.

ACTION: The Secretariat to liaise with the Deputy Chair and the Master of the Rolls on the draft annual report and to bring a final draft to Council in May.

7. Advisory Council Records Report

- 7.1. The Secretariat introduced the paper on Council's records, including records which have fallen out of compliance, updating members on the progress made since the previous update and plans for the following quarter. She summarised the recommendations made within the report.
- 7.2. Members queried how long it took to consider a single file. The Secretariat noted that this varied depending on the content within the files.
- 7.3. Members noted that the submission to the Secretary of State containing the request for retention of Council files should make explicit the fact that in this case the Council had reviewed and was recommending its own records.
- 7.4. Members noted the report.

DECISION: Members endorsed the recommendations in the report.

8. Freedom of Information (FOI) Panel Update

- 8.1. The Council received a paper providing an overview of the issues and work undertaken by Panels, which included the most recent service statistics, and responded to a number of matters raised by Panel members.
- 8.2. Additional to the summary of the Council's FOI panels, Ms Browne noted that the MoD Service Personnel records remained popular. This had given rise to a substantial proportion of the FOI requests The National Archives was receiving and details for how to make these requests were listed on the website. Members asked about the type of information present in the records. Ms Browne confirmed this was largely personal information, but there were occasionally other relevant exemptions. The sensitivity of the information contained in the records and living relatives who might be affected depended on the age of the records. Often it was noted that FOI requesters self-declared if they were a family, and in some of these cases they could confirm proof of death.
- 8.3. Aside from the MoD Service Personnel records, The National Archives continued to receive a high number of cases for FOI requests. As part of the Council's ongoing FOI work she noted the ICO had provided a decision

notice recently regarding royal wills and this would be circulated to members. She also noted that in cases applying S38 one only needed to go to the nearest degree of effect and any subsequent effects on family members did not affect the application of S38.

- 8.4. Members noted it was important that the quality of applications from departments was maintained.
- 8.5. The Council noted the report.

ACTION: The Secretariat to circulate the ICO decision notice.

ACTION: The Secretariat to note the item recommended for a future spot check.

9. Departmental Retention Requests

- 9.1. The Council considered papers from departments relating to the retention of records and updates on current retention instruments, further to requests from members made at previous meetings.
- 9.2. The Council's decisions made in respect of each paper have been noted below. Any resulting approval recommendations will then go forward to the Secretary of State.

ACTION: The Secretariat will write to departments to notify them of the Council's recommendations, including any which will go forward to the Secretary of State with regard to their retention requests.

There were applications for retentions of one year from the following government departments:

- DCMS
- Ministry of Justice (MoJ)

Updates were received from the following departments:

- Department for Levelling Up, Housing and Communities (DLUHC)
- Foreign, Commonwealth and Development Office (FCDO)

Updates were received from the following arm's length bodies:

- Crown Estate
- Health and Safety Executive (HSE)
- Natural England

- National Crime Agency (NCA)

Updates were received from the following arm's length bodies:

- Tate

10. Access to Records

- 10.1. The Council formally approved the acceptance of schedules seen outside the meeting, with the exception of any queries which were brought to the meeting.
- 10.2. A schedule of closure applications, together with a schedule of retention applications, was sent to members prior to the meeting. Members had been asked to raise any queries within 10 days.
- 10.3. The Head of Government Services collated the queries and a list of them was circulated with the papers for this meeting, with responses being provided where possible.
- 10.4. At the meeting, members were asked if they were content with the responses provided, whether in written form or orally. Where a response had not been provided, or members remained unhappy, the queries were carried forward.
- 10.5. Council had some concerns that there were a number of old requests for further information from departments which were not yet answered. Council welcomed the new method of presentation of schedules by TNA which highlighted outstanding cases, and the efforts made by Charlene Amarte and her team to resolve these old requests. It asked the Working Group to consider further how to expedite these cases, on the basis of advice from TNA.

Outstanding Queries

Queries on closure and retentions schedules (November 2022)

Queries on closure and retentions schedules (February 2023)

- 10.6. The Council was content to approve the applications on the basis of the clarification or additional information provided by the departments, subject to certain exceptions, which were either queried, withdrawn or carried over, as the relevant department had yet to respond.

Queries on comments and typographical errors (February 2023)

10.7. The Council noted the comments made.

11. Any Other Business

11.1. The Chair thanked everyone and closed the meeting by wishing everyone well.

There being no further business, the meeting was closed at 15.40pm.